

1 HB46
2 104374-1
3 By Representative Bentley
4 RFD: Government Appropriations
5 First Read: 03-FEB-09
6 PFD: 12/10/2008

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8 SYNOPSIS: Currently, after the death of a justice or
9 judge his or her spouse receives a yearly benefit
10 for the remainder of the spouse's life or until
11 remarriage.

12 This bill would allow the spouse to receive
13 the yearly benefit after remarriage.
14

15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Section 12-18-10, Code of Alabama 1975,
20 relating to judicial retirement benefits, to allow the spouse
21 of a deceased justice or judge to receive the yearly benefit
22 after remarriage.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 12-18-10, Code of Alabama 1975,
25 is amended to read as follows:

26 "§12-18-10.

1 "(a) The retirement benefit payable to a justice of
2 the Supreme Court or judge of one of the courts of appeals
3 retiring pursuant to subdivision (2), (3), (4) or (5) of
4 subsection (a) of Section 12-18-6 shall be 75 percent of the
5 salary prescribed by law for the position from which he
6 retires, payable monthly for the rest of his life. Such
7 benefit shall continue to be 75 percent of his salary
8 prescribed by law for such position and shall change in amount
9 as such salary is hereafter increased or decreased by law and
10 shall not be subject to writs of attachment or garnishment.

11 "(b) The retirement benefit payable to a judge of a
12 circuit court retiring pursuant to subdivision (2), (3), (4)
13 or (5) of subsection (b) of Section 12-18-6 shall be 75
14 percent of the salary prescribed by law of the salary payable
15 from the State Treasury to circuit judges. Such retirement
16 benefits shall be payable monthly for the life of the
17 beneficiary and shall continue to be 75 percent of the salary
18 then prescribed by law for the respective position and shall
19 change in amount as such salary is hereafter increased or
20 decreased by law and shall not be subject to writs of
21 attachment or garnishment.

22 "(c) After the death of any justice or judge who had
23 held office for a minimum of five years, his spouse shall
24 receive a yearly benefit equivalent to three percent of the
25 salary payable from the State Treasury prescribed by law for
26 his former position as either a justice or judge, as the case
27 may be, for each year of service, not to exceed 30 percent of

1 such salary, payable monthly for the remainder of such
2 spouse's life ~~or until his or her remarriage~~, and such benefit
3 shall change in amount as such salary is hereafter increased
4 or decreased by law.

5 "(d) Any justice or judge retiring pursuant to
6 subdivision (1) of subsection (a) or subdivision (1) of
7 subsection (b) of Section 12-8-6 who has served for 10 years
8 shall be entitled to a disability benefit allowance payable
9 monthly from the Judicial Retirement Fund equal to 75 percent
10 of the salary payable from the State Treasury for the position
11 he held at the time he retires. If such disabled justice or
12 judge has served less than 10 years, he shall be entitled to
13 receive a monthly disability benefit that is equal to 25
14 percent of the salary payable from the State Treasury for the
15 position he held at the time he retires plus 10 percent of
16 such salary for each year of service in excess of five years;
17 provided, however, that in no event shall such justice or
18 judge receive less than 30 percent of the annual salary being
19 paid to a full-time justice or judge, as the case may be, from
20 the State Treasury.

21 "(e) Every justice or judge who has retired pursuant
22 to this article may, on the request of the Chief Justice, the
23 presiding judge of a court of appeals or the Governor, be
24 called to active duty status and, when serving with the
25 Supreme Court or courts of appeals, shall perform such duties
26 as may be prescribed by the Chief Justice or the presiding
27 judge of the court of appeals with which he is serving and,

1 when serving in a circuit court, shall perform such duties as
2 may be prescribed by the presiding judge in the circuit. Such
3 retired justice or judge of a court of appeals in such active
4 service status shall receive an additional sum during the term
5 of such service which, when added to his retirement benefits,
6 would amount to \$250.00 per month less than the monthly salary
7 paid a justice or judge of the appellate court from which he
8 has retired. The salary paid a retired circuit judge called to
9 active service with the Supreme Court or a court of appeals
10 shall be the salary paid a circuit judge in the circuit from
11 which said judge retired. The salary paid a retired circuit
12 judge called to active service as a circuit judge shall be the
13 salary paid a regular judge in the circuit to which he is
14 assigned or in the circuit from which he retired, whichever is
15 greater. In no event, however, shall the total compensation
16 paid to a retired circuit judge on active status during any
17 calendar year exceed a sum which is \$1,000.00 less than the
18 compensation received by a regular judge in the circuit from
19 which such judge retired.

20 "Whenever a retired justice or judge of a court of
21 appeals is serving in a circuit court, he shall receive
22 compensation equal to that due the regular judge of that
23 circuit for the performance of such duties, such compensation
24 to be paid in the same manner as the compensation of the
25 regular circuit judge is paid; and, whenever a retired justice
26 or a judge of a court of appeals is serving as an active
27 member on the Supreme Court or on one of the courts of

1 appeals, then he shall be entitled to receive, during the time
2 of such service, compensation equal to that due a regular
3 justice or judge for the performance of such duties, such
4 compensation to be paid in the same manner as the compensation
5 of a regular justice or judge is paid.

6 "A retired justice or judge of one of the courts of
7 appeals or circuit judge, while serving with the Supreme Court
8 or one of the courts of appeals for reasons other than the
9 absence or disqualification of a justice or judge, shall
10 perform such duties as may be prescribed by the Chief Justice
11 when serving with the Supreme Court, or as prescribed by the
12 presiding judge of the court of appeals with which he may be
13 serving.

14 "(f) The Chief Justice, with the advice of the
15 Supreme Court, or the presiding judge of a court of appeals,
16 with the advice of the court over which he presides, shall
17 determine whether such retired justice or judge is
18 satisfactorily performing his assigned duties. Upon
19 determination that such retired justice or judge is not
20 satisfactorily performing such duties, such retired justice or
21 judge shall immediately be removed from active status, and his
22 additional active duty compensation shall be stopped.

23 "(g) Except as provided in subsection (f) of this
24 section, a retired justice or judge shall hold office as such
25 additional or extra judge during good behavior and may be
26 removed only for causes specified in the constitution. Such
27 retired justices or judges may, however, but subject to the

1 approval of the chief justice, be transferred to inactive
2 status, upon request for such transfer. Justices or judges who
3 revert to inactive status shall be entitled to the same
4 retirement benefits prescribed in subsections (a) and (b) of
5 this section for justices and judges who have retired.

6 "(h) Nothing contained in this section or hereafter
7 shall limit the power and authority of the Chief Justice to
8 transfer a retired justice or judge from inactive status to
9 active status or from active status to inactive status as the
10 public interest in his judgment requires."

11 Section 2. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.